

Decision 04-04-013 April 1, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of Terrence and
Roseann Grimm for Authorization To Modify
Resolution E-3842, Dated September 18, 2003.

Application 04-02-003
(Filed February 2, 2004)

O P I N I O N

I. Summary

Terrence and Roseann Grimm of Kenwood Inn and Spa expanded their Inn and required relocation of four overhead utility poles in the vicinity of the Inn's driveway. But, because of concerns from neighbors and a local water agency on the locations of overhead utility facilities, they request authorization to modify Resolution E-3842. Their application requests the following:

1. Paragraph 1 of the order would be restated to provide, "The Kenwood Inn and Spa's exemption from undergrounding the conductors on four existing joint utilities poles along Highway 04-SON-12 is approved, but the Kenwood Inn and Spa may elect to place the electric lines, poles, and transmission facilities underground. The overhead relocation deviation is granted only through the end of 2004"

2. As part of the undergrounding option described in paragraph (1), above, the Kenwood Inn and Spa may elect to: either, (a) cause to be erected and placed a new power pole immediately adjacent to the existing pole (the "Kunde Pole") on the opposite, East, side of Highway 04-SON-12, situated on real property owned by the Kunde family; or, (b) cause to be constructed a concrete

pad upon the Kunde property, and relocate the transformer currently situated upon the Kunde Pole upon the pad.

By this decision, we grant the requested authority subject to the terms and conditions set forth below.

II. Background

Left-Turn Lane and Road Widening Leads to Pole Relocation Proposal

Kenwood Inn and Spa (Kenwood) is located west of Highway 12, approximately 1.5 miles south of Kenwood. Kenwood applied in year 2001 to the County of Sonoma to expand their existing 12-room facility and add 24 new rooms. The Sonoma County Board of Supervisors by Resolution 01-1226, on September 18, 2001, approved their application for General Plan Amendment, Rezoning, Use Permit, and Lot Line Adjustment. However, a condition of approval requires Kenwood Inn and Spa to construct a left-turn lane into the project entrance prior to building occupancy. Four existing utility poles, supporting PG&E 12KV lines and Verizon conductors, are located on the west side of Highway 12, Mile Post 27.8, in the vicinity of Kenwood's driveway. Kenwood must either relocate these poles by 4 to 12 feet, or replace them with approximately 950 feet of underground electric and communication facilities along this section of the highway.

Kenwood Requested Exemption from Undergrounding

On July 21, 2003, Kenwood Inn and Spa on behalf of PG&E requested authorization to permanently relocate these four existing joint utilities poles.

Sonoma County Water Agency (SCWA) Initially Objected to the Pole Relocation and Undergrounding Options

Moving the four poles would affect the Sonoma County Water Agency (SCWA). In a letter dated August 11, 2003, SCWA did not consent to the

relocation of electric lines within their easement, asserting that the proposed relocation, whether above or below ground, would create a significant safety hazard for SCWA maintenance crews to quickly access SCWA's aqueduct in the event of an emergency. Furthermore, stray currents from the underground electric lines also could increase corrosion of their aqueduct by decreasing the effectiveness of its cathodic protection system.

SCWA Conditionally Allowed Pole Relocation

On August 22, 2003, SCWA verbally agreed to allow the four power poles to temporarily move into their easement (subject to SCWA's board approval), but with an obligation to replace the poles with underground facilities either at the very edge of their easement, or outside of it, within 5 years, because SCWA contemplates to add another major water line in their easement within the next ten years.

Kenwood, SCWA, and PG&E have been Working on an Easement Agreement

Kenwood, SCWA, and PG&E have been drafting an easement agreement since August 22, 2003, and recognized that Mr. Darius Anderson would need to grant a guy-wire easement for the overhead relocation.

Kenwood Exempted from Undergrounding

On September 18, 2003, the Commission evaluated and granted Kenwood's request by Resolution E-3842.

Neighbor Denied Easement for Guy Wire

On or about October 15, 2003, Kenwood learned that Anderson was unwilling to grant an easement for a guy wire needed to relocate one of the power poles above ground. Kenwood for two reasons now was forced to return to pursuing the more costly underground alternative.

Kenwood's Proposal to Erect New Pole on the Other Side of the Highway

On October 15, 2003, Kenwood Inn and Spa proposed to remove the four poles and underground the electric and communication facilities along this section of the highway; and to bore under the highway and permanently install a new riser pole on the other (eastern) side of Highway 12, to maintain service to Kunde Vineyard's property. An overhead power line would connect from this new riser pole eastward to an existing power pole (with pole-mounted transformers) some 200 feet into Kunde Vineyard's property to serve their irrigation pumps.

Kunde Vineyard Granted Easement to Erect New Power Pole on their Property

On December 5, 2003, Kunde Vineyard objected to this proposal based on aesthetical effect of the new pole on the highway adjacent to their property. Kunde Vineyard, however, would grant PG&E the necessary easements to erect a new riser pole within the vineyard next to the existing power pole on their property, and to underground the electric service from Highway 12 to this new riser pole at no expense to Kenwood Inn and Spa. But Kenwood would have to route underground facilities, the riser pole, and guy wires along an existing driveway to minimize vine disturbance.

Safety Requirements for the Undergrounding Option

PG&E has a safety requirement for transition between underground and overhead facilities. A new riser pole is required if the last overhead pole has a transformer on it, or, a new concrete pad is required 10 feet away for a padmount transformer. The transformer pad alternative would cost approximately an additional \$40,000.

Pole Relocation and Overhead Conversion Cost Estimates

Kenwood Inn and Spa submitted cost estimates for pole relocations, and

overhead conversion with a new riser pole or a new padmount transformer in Attachment A.

III. Public Utilities (PU) Code Requires Overhead Conductors Along Scenic Highways to be Placed Underground if Disturbed

The Commission administers Section 320 of the Public Utilities (PU) Code requiring undergrounding of utility facilities along state-designed Scenic Highways, and accepts letter requests for deviations. After hearings conducted in Case 9364, Commission Decision (D) 80864 implemented the State Legislation. D.80864 stipulates that no communications or electric utility shall install overhead distribution facilities "in proximity to" and "visible from" any designated Scenic Highway in California unless a showing is made before the Commission and a finding made by the Commission that undergrounding would not be feasible or would be inconsistent with sound environmental planning. The Decision also defines "in proximity to" as being within 1,000 feet from each edge of the right-of-way of designated State Scenic Highways.

IV. Visibility and Aesthetics

Minimal Adverse Visibility and Aesthetics Impact on Highway

There would be little or no adverse impact on visibility and aesthetics of the highway based on the photographs and project drawings submitted by Kenwood of the single proposed riser pole or concrete pad located some 200 feet off the highway. Furthermore, removing the existing electric and telephone cables on poles along the aforementioned sections of Highway 12 would dramatically improve the aesthetics of the highway, and conform with PU Code Section 320.

Local Government has No Objection to Undergrounding

On March 4, 2004, the County of Sonoma Permit and Resource Management Department stated in an electronic communication to Kenwood that this proposal is superior to the previous alternative of locating the single riser pole immediately adjacent to the highway, since visual impact is less.

V. Environmental Impact of the Project on the Highway

This project is exempted from General Order 131-D environmental requirements, since the voltage level of the aerial electric facilities is below 50KV. Kenwood has not conducted an environmental assessment on the impact of undergrounding along Highway 04-SON-12.

VI. The Undergrounding Option Doubles the Total Project Cost

Applicant and Petitioner Kenwood, due to circumstances, is incurring costs to place electric and telephone lines underground. Undergrounding cost would exceed overhead cost by more than 5:1, and the cost of the project as a whole is doubled. The transformer pad alternative would add another \$40,000 to the total project cost. Kenwood further asserts that delays cost \$30,000 per month, while the end result complies with PU Code Section 320 after all.

VII. Conclusion

We conclude that the application conforms to the interpretations and intents of the Public Utilities Code. Accordingly, we shall grant Applicant requests subject to compliance with the terms and conditions set forth herein.

- Applicant is to obtain written approval from Kunde Vineyard for the easement right to install the transformer pad and associated equipments if they choose to proceed with this alternative.

- The overhead pole relocation deviation, and overhead conversion with a new power pole or transformer pad options are granted only through the end of 2005.

VIII. Categorization and Need for Hearings

The Commission preliminarily categorized this application as Quasi-Legislative, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

IX. Comments on Draft Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Pub. Util. Code § 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

X. Assignment of Proceeding

Paul Clanon is the Assigned Examiner in this proceeding.

Findings of Fact

1. A notice of the filing of the application appeared in the Daily Calendar on February 10, 2004.
2. There were no protests to this application.
3. A hearing is not required.
4. Kenwood must either relocate four poles located on the west side of Highway 12, Post Mile 27.8, in the vicinity of Kenwood's driveway, by 4 to 12 feet; or replace them with approximately 950 feet of underground electric and communication facilities along this section of the highway.

5. On July 21, 2003, Kenwood Inn and Spa on behalf of PG&E requested authorization to permanently relocate these four existing joint utilities poles.

6. In a letter dated August 11, 2003, SCWA did not consent to the relocation of electric lines within their easement.

7. On August 22, 2003, SCWA verbally agreed to allow the four power poles to temporarily move into their easement (subject to SCWA's board approval), but with an obligation to replace the poles with underground facilities either at the very edge of their easement, or outside of it, within 5 years.

8. Kenwood, SCWA, and PG&E have been working on the terms and conditions of the easement agreement since August 22, 2003.

9. On September 18, 2003, the Commission evaluated and granted Kenwood's request by Resolution E-3842.

10. On or about October 15, 2003, Kenwood also learned that Mr. Darius Anderson was unwilling to grant an easement for a guy wire, which was necessary to relocate the power poles above ground.

11. On October 15, 2003, Kenwood Inn and Spa proposed to remove the four poles and underground the electric and communication facilities along the same section of the highway; and to bore under the highway and permanently install a new riser pole on the other (eastern) side of Highway 12.

12. On December 5, 2003, Kunde Vineyard objected to this proposal based on aesthetical effect of the new pole on the highway adjacent to their property, but granted PG&E the necessary easements from Highway 12 to an existing power pole within the vineyard, and to erect a new riser pole next to this power pole at no expense to Kenwood Inn and Spa.

13. By a Petition of Modification dated January 29, 2004, Kenwood Inn and Spa on behalf of PG&E requested authority to modify Resolution E-3842 to reflect these developments.

14. Kenwood now requests the option to underground overhead facilities along Highway 04-SON-12, Post Mile 27.8, in the vicinity of the Kenwood Inn's driveway, despite the exemption from undergrounding that the Commission granted Kenwood in Resolution E-3842.

15. Kenwood secondly requests deviation from California Public Utilities Code section 320 to either install a new power pole or to construct a concrete transformer pad on Kunde Vineyard's property approximately 205 feet from the eastern right of way of the highway.

16. On March 4, 2004, the Resource Management Department of the County of Sonoma and PG&E indicated no objection to the new riser pole, transformer pad, and overhead conversion proposals.

17. It is unsafe for an underground service to terminate on a power pole with a pole-mounted transformer.

18. There would be little or no adverse impact on visibility and aesthetics of the highway based on the photographs and project drawings submitted by Kenwood of the single proposed riser pole or concrete pad located some 200 feet off the highway.

19. The utility costs alone, to place electric and telephone lines underground would exceed the overhead cost by more than 5:1, and the cost of the project as a whole would be doubled.

Conclusions of Law

1. The Commission administers Section 320 of the Public Utilities (PU) Code requiring undergrounding of utilities lines long designed Scenic Highways and accept letter requests for deviations.
2. The applicant must show that undergrounding would not be economically feasible, technically possible, or would be inconsistent with sound environmental planning.
3. The Commission should approve and grant this application to modify Resolution E-3842, subject to the terms and conditions set forth herein, to reflect changed circumstances since it was signed.
4. Applicants showing of the technical requirement for a new riser pole, and of neighbors' and local agency's concerns warrants the exemption for the new riser pole and modification of Resolution E-3842.
5. Because of substantial ongoing costs to petitioner Kenwood and of the public interest in visibility and aesthetics of scenic highways, the following order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. Resolution E-3842 shall be modified as follow:
 - The Kenwood Inn and Spa's exemption from undergrounding the conductors on four existing joint utilities poles along Highway 04-SON-12 remains approved, but the Kenwood Inn and Spa may elect to place the electric lines, poles, and transmission facilities underground.
 - Kenwood Inn and Spa may elect to: (a) erect and place a new power pole immediately adjacent to the existing pole (the "Kunde Pole") on

the opposite, East, side of Highway 04-SON-12, situated on real property owned by the Kunde family; or, (b) construct a concrete pad upon the Kunde property, and relocate the transformer currently situated upon the Kunde Pole upon the pad.

- Kenwood Inn and Spa must obtain written approval from Kunde Vineyard for the easement right to install the transformer pad and associated equipments, if they choose to proceed with this alternative.
- The options for overhead pole relocations and overhead conversion with a new power pole or transformer pad are granted only through the end of 2005.

2. This proceeding is closed.

This order is effective today.

Dated April 1, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

ATTACHMENT A

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Kenwood Inn and Spa submitted the following information related to pole relocation, and overhead conversion with a new riser pole or a new padmount transformer.

Options	Kenwood Inn and Spa Cost	Electric Related Cost	Telephone ¹ Related Cost	Combined Electric and Telephone Costs	Total Cost
Overhead Relocation	\$104,820	\$ 74,797.92	\$2,800	\$77,597.92	\$182,417.9
Underground with New Riser Pole	\$104,820	\$416,806.21	\$5,500	\$422,306.21	\$527,126.21
Underground with Padmount Transformer	\$104,820	\$456,806.21	\$5,500	\$462,306.21	\$567,126.21

¹ Since the telephone lines would be put in the same trench as the electric lines, the cost estimate to underground telephone lines and equipment does not include trenching.